

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

DAMON SLONE,

Plaintiff,

v.

CIVIL ACTION NO. 2:03-cv-0081

JAN 30 2003  
SAMUEL L. KAY, CLERK  
U. S. District & Bankruptcy Courts  
Southern District of West Virginia

Removal of Kanawha County Circuit Court  
Civil Action No. 03-C-35

JOE MANCHIN, III, and LARRY PUCCIO,  
in their official and individual capacities,

Defendants.

**NOTICE OF REMOVAL**

NOW COMES the Defendants, Joe Manchin, III, and Larry Puccio, in their official and individual capacities, and respectfully show as follows:

1. They are defendants in the above captioned action.
2. The above captioned action was commenced in the Circuit Court of Kanawha County, West Virginia, and is now pending in that Court as Civil Action. No. 03-C-35. Process and Complaint, which were duly filed in the office of the Clerk of said court, on May 5, 2000, were purportedly served on these Defendants by certified receipt mail dated January 9, 2003.
3. The United States District Court for the Southern District of West Virginia has original jurisdiction of Plaintiff's Complaint under 42 U.S.C. § 1983 and under 28 U.S.C. § 1331 and § 1343. This action may be removed to the United States District Court for the Southern District of West Virginia pursuant to the provisions of 28 U.S.C. §§ 1441 and 1443, and that Plaintiff's Complaint seeks, in part, to redress the alleged violation of Plaintiff's civil and constitution rights and privileges and immunities secured by the United States Constitution.
4. Plaintiff specifically pleads that "Defendants violated U.S. Const. amend. 1 and

W.Va. Const. art. III, § 7, by intentionally dismissing Mr. Slone because he had, or was believed to have had affiliations with Charlotte Pitt's campaign with other political groups whose interests were opposed to Defendants." (See Count 2, ¶ 14 of Plaintiff's Complaint.)

5. Attached hereto is the certified docket sheet from the Circuit Court of Kanawha County, "Complaint" filed by the Plaintiff in the Circuit Court of Kanawha County, West Virginia, "Civil Case Information Statement Civil Cases" in the case styled Damon Slone v. Joe Manchin, III, and Larry Puccio, together with superimposed copies of the U.S. Postal Service Certified Mail Receipt attachments.

**WHEREFORE**, the Defendants, Joe Manchin, III, and Larry Puccio, in their official and individual capacities, notify the Plaintiff, Damon Slone, and his attorney that the aforesaid civil action has been removed from the Kanawha County Circuit Court to the United States District Court for the Southern District of West Virginia, and that said State Court may proceed no further in this action.

**JOE MANCHIN, III, and LARRY PUCCIO, in their official and individual capacities,**

By Counsel,



Charles R. Bailey, Esquire (WV Bar No. 0202)  
Justin C. Taylor, Esquire (WV Bar No. 8014)  
BAILEY & WYANT, P.L.L.C.  
405 Capitol Street, Suite 1007  
Post Office Box 3710  
Charleston, West Virginia 25337-3710  
(304) 345-4222

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

DAMON SLONE,

Plaintiff,

v.

CIVIL ACTION NO. \_\_\_\_\_

Removal of Kanawha County Circuit Court  
Civil Action No. 03-C-35

JOE MANCHIN, III, and LARRY PUCCIO,  
in their official and individual capacities,

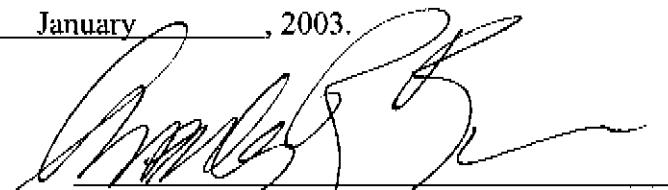
Defendants.

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that the foregoing "Notice of Removal" has been served upon the following counsel of record by this day mailing true copies thereof:

Betty Clark Gregory, Esquire  
P.O. Box 229  
Alum Creek, West Virginia 25003  
*Counsel for the Plaintiff*

Done this 30<sup>th</sup> day of January, 2003.



Charles R. Bailey, Esquire (WV Bar No. 0202)  
Justin C. Taylor, Esquire (WV Bar No. 8014)  
BAILEY & WYANT, P.L.L.C.  
405 Capitol Street, Suite 1007  
Post Office Box 3710  
Charleston, West Virginia 25337-3710  
(304) 345-4222  
*Counsel for Defendants*

CASE 03-C-35  
KANAWHA  
vs. JOE MANCHIN, III, IN HIS OFFICE

LINE DATE ACTION

1 01/07/03 # ISSUED SUM & 2 CPYS; F FEE: GREGORY FOR P; CK; RCPT 347991;  
2 # \$85.00; CASE INFO SHEET; COMPLAINT; (2) S/P BY RESTRICTED;  
3 # DELIVERY BY CM; RCPT 347991; \$20.00  
4 01/10/03 # S/P AS TO JOE MANCHIN, III SIGNED 1/9/03  
5 01/10/03 # S/P AS TO LARRY PUCCIO SIGNED 1/9/03

A TRUE COPY  
TESTIMONY  
CIRCUIT COURT KANAWHA COUNTY, WVA

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Civil Action Number 03-C35  
Judge W. M. Mar

Damon Stone, Plaintiff

v.

Joe Manchin, III, and Larry Puccio,  
in their official and individual capacities,  
Defendants

Honorable Joe Manchin, III  
State Capitol Bldg 1, Su 157-K  
1900 Kanawha Blvd.  
Charleston, WV 25305

To the above-named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Betty Clark Gregory, Plaintiff's attorney, whose address is P.O. Box 229, Alum Creek, WV 25003, an answer, including any related counterclaim you may have, to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 60 days pursuant to S.S. 17-4 after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

John C. Gandy  
Clerk of County Sc

Dated 1/30/03

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Civil Action Number 03-C-35  
Judge Wulmer

Damon Sloane,  
Plaintiff

v.

Joe Manchin, III, and Larry Puccio,  
in their official and individual capacities,  
Defendants

COMPLAINT

This is a case of the "fox guarding the henhouse." The plaintiff alleges the West Virginia Secretary of State and his Chief of Staff violated the U.S. Const., the W.Va. Const. and other statutes by terminating his job as an investigator for investigating political corruption throughout West Virginia.

Plaintiff also alleges that Defendants terminated him for political reasons and to undermine a substantial public policy. Plaintiff therefore asks this Court for damages in the amount to be determined by the court.

PARTIES AND JURISDICTION

1. Plaintiff, Damon Sloane has an impressive background as a law enforcement officer and an investigator. He is a citizen and resident of Cabell County, West Virginia. He was employed by the West Virginia Secretary of State as an investigator in 1989, qualified pursuant to W.Va. Code § 3-1A-8.
2. Defendant, Joe Manchin, III, is the duly elected Secretary of State of West Virginia, and chief elections officer of the state. As such, he acted under color of state law and in his

individual capacity at the time these claims occurred.

3. Defendant, Larry Puccio, is the chief of staff for the West Virginia Secretary of State, who also acted under color of state law and in his individual capacity at the time these claims occurred.

#### FACTS

6. Mr. Slone was employed by the Secretary of State as an investigator on Jan 13, 1989. Mr. Slone was never disciplined, his job performance was excellent, with no excessive absenteeism, and was not insubordinate.
7. Mr. Slone's duties included investigating election fraud. However, he was not in a policymaking position.
8. At the request of the Boone County Prosecuting Attorney, Mr. Slone was investigating election law violations in that county.
9. Mr. Slone was investigating election fraud in Logan County, West Virginia.
10. Mr. Slone supported Defendant Manchin's opponent, Charlotte Pritt's campaign for Secretary of State.
11. Defendants promised politicians being investigated that when Manchin took office, the investigations would stop and Mr. Slone would be fired before he could report his findings to the proper authorities. Thus any threat of prosecution would be eliminated.
12. Mr. Slone was fired to prevent him from reporting his findings.
13. Manchin was elected as Secretary of State in November 2000, and took office in January 2001.
14. On March 1, 2001, Mr. Slone was given a letter of termination as of March 15, 2001, signed by the Chief of Staff, Puccio and authorized by the Secretary of State, Manchin.

**CAUSE OF ACTION**

Mr. Slone's constitutional rights, privileges or immunities have been violated according to the following:

**COUNT 1: FIRST AMEND. RIGHT**

12. Defendants violated the W.Va. Const. art. III, § 7, by acting in their capacity of the Office of the Secretary of State when terminating Mr. Slone's employment. Further, Defendants acted in an individual capacity while campaigning for public office. Thus Defendants deprived Mr. Slone of his first amendment activity of reporting election law violations to the proper authorities.
13. Defendants' acts directly and proximately caused, and will continue to cause Mr. Slone great psychological and emotional stress and loss of income.

**COUNT 2: POLITICAL FIRING**

14. Defendants violated U.S. Const. amend. I and W.Va. Const. art. III, § 7, by intentionally dismissing Mr. Slone because he had, or was believed to have had affiliations with Charlotte Pritt's campaign or with other political groups whose interests were opposed to Defendants'.

**COUNT 3: WRONGFUL DISCHARGE**

15. Defendants violated W.Va. Const. art. III, § 7, by terminating Mr. Slone's employment with the Secretary of State in contravention to a substantial public policy.
16. Defendants violated the Equal Representation Clause, W.Va. Const. art. II, § 4, and the Safeguards for Ballots Clause, W.Va. Const. art. IV, § 11, by interfering with an investigation into political corruption. Defendant's activity also violated the Code of Fair

Campaign Practices as outlined in W.Va. Code § 3-1B-5.

17. Defendant's acts directly and proximately caused, and will continue to cause Mr. Slone great psychological and emotional stress and loss of income.

**RELIEF**

Wherefore, Mr. Slone respectfully requests the following relief:

1. That he be awarded damages against Defendant in an amount to be determined at trial that would fairly compensate him for past, present and future psychological and emotional distress, economic losses, and inconvenience caused by Defendant violating Mr. Slone's Constitutional rights.
2. That he be awarded punitive damages in an amount to be determined at trial.
3. That he be awarded his costs and reasonable attorney fees.
4. That he be awarded any further relief that the court deems appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY.

DAMON SLONE  
By counsel

Betty C. Gregory  
Betty Clark Gregory (#8886)  
P.O. Box 229  
Alum Creek, WV 25003  
Phone: (304) 756-3740 Fax: 756-3073

**CIVIL CASE INFORMATION STATEMENT**  
**CIVIL CASES**  
**(Other than Domestic Relations)**

In the Circuit Court, Kanawha County, West Virginia

**I. CASE STYLE:**

Plaintiff(s)

DAMON SLONE

Case #

Q3C-35

Judge:

Hau/Man

vs.

Defendant(s)

Joe Manchin, III, and Larry Puccio

Days to

Answer

Type of Service

State Capitol Bldg. Su. 157-K

60

Certified Mail

1900 Kanawha Blvd. Charleston, WV 25305

City, State, Zip

U.S. POSTAL SERVICE CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$ <u>  </u>
Certified Fee	\$ <u>  </u>
Return Receipt Fee (Endorsement Required)	\$ <u>  </u>
Restricted Delivery Fee (Endorsement Required)	\$ <u>  </u>
Total Postage & Fees	\$ <u>  </u>
Mr. Larry Puccio	
To: State Capitol Bldg 1, Su 157-K	
1900 Kanawha Blvd.	
Charleston, WV 25305	

PS Form 3600, Series 2  
Reverse for Instructions

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AK 105.00 347991  
JN  
JChm JP

Original and \_\_\_\_\_ copies of complaint enclosed/attached.

PLAINTIFFS: Damon Sloane	CASE NUMBER:
DEFENDANTS: Joe Manchin, III and Larry Puccio	

## II. TYPE OF CASE:

<input checked="" type="checkbox"/> General Civil	<input type="checkbox"/> Adoption	<input type="checkbox"/> Civil Appeal from Magistrate court
<input type="checkbox"/> Mass Tort Litigation	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Miscellaneous Civil Petition
<input type="checkbox"/> Guardianship/ Conservatorship	<input type="checkbox"/> Administrative Agency Appeal	<input type="checkbox"/> Other (specify) _____

III. JURY DEMAND:  Yes  NoCASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): 02 / 03IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO DISABILITY?  Yes  No

IF YES, PLEASE SPECIFY:

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: \_\_\_\_\_

Attorney Name: Betty Clark Gregory RepresentingFirm: \_\_\_\_\_  Plaintiff  DefendantAddress: P.O. Box 229; Alum Creek  Cross-Complaint  Cross-DefendantTelephone: (304) 756-3740Dated: 1/7/03

*Betty Gregory*  
Signature

 Proceeding Without an Attorney

CHURCH OF CHRIST  
WILLIAMSBURG

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<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <i>James R. Flaherty</i></p> <p><input type="checkbox"/> Agent    <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>James R. Flaherty</i></p> <p>C. Date of Delivery <i>JAN 09 2003</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>1. Article Addressed to:</p> <p>Honorable Joe Manchin, III State Capitol Bldg 1, Su 157-K 1900 Kanawha Blvd. Charleston, WV 25305</p> <p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered    <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail    <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

Honorable Joe Manchin, III  
State Capitol Bldg 1, Su 157-K  
1900 Kanawha Blvd.  
Charleston, WV 25305

2002 2410 0002 2565 2422

PS Form 3811, August 2001

**Domestic Return Receipt**

102696-02-M-1540

03-00081-0 00100-16

RECEIVED  
U.S. POSTAL SERVICE  
COLUMBIA, MD 20734  
JAN 9 2003

**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Mr. Larry Puccio  
State Capitol Bldg 1, SU 157-K  
1900 Kanawha Blvd.  
Charleston, WV 25305

## A. Signature

*Mr. Larry Puccio* *1/9/03*

Agent  
 Addressee

B. Recipient's Printed Name *Mr. Larry Puccio* C. Date of Delivery *JAN 9 2003*

D. Is delivery address different from item 1? *No*  
If YES, enter delivery address below:  No

## 3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7002 2410 0002 2565 2439

03-C-35 fsc